

REMARKS

Reconsideration of this application, as amended, is requested.

Claims 1 and 4-8 remain in the application. Nonelected claims 2 and 3 have been canceled. Claim 1 is the only independent claim in the application and has been amended to define the invention more clearly.

Original claim 1 and its dependent claims 4-8 were rejected under 35 USC 102(b) as being anticipated by Reising et al. (US 4,681,580). Claim 9 was rejected under 35 USC 103(a) as being obvious over Reising et al. With respect to claim 1, the Examiner asserted that the Reising et al. reference shows a disposable wearing article 10 having a back region 31 and an abdominal region 31. The Examiner noted that the Reising et al. reference has an absorber 14 that bridges between the back region 30 and the abdominal region 30. Additionally, the Examiner concluded that a length of the back region in the waist direction when stretched would be longer than a length of the abdominal region when the abdominal region is not stretched. Additionally, the Examiner concluded that the length of the back region in the waist direction when no force is applied is almost equal to the length of the abdominal region in the waist direction. The Examiner referred to FIG. 1 of Reising et al. and the portion of the Reising et al. disclosure at col. 10, lines 53-64 to support this conclusion. The Examiner also argued that the Reising et al. reference has each of the limitations set forth in dependent claims 4-8. With respect to claim 9, the Examiner acknowledged that Reising et al. does not teach the claimed length of the flaps. However, the Examiner concluded that the length of the flaps recited in claim 9 is not patentably distinct from Reising et al.

The Reising et al. reference relates to a disposable wearing article with a back region 32, an abdominal region 33 and an absorber 34 that bridges between the back region 32 and the abdominal region 33. The back region 32 and the abdominal region 33 define substantially equal lengths in the waist direction when no external force is applied to the disposable wearing article. The Examiner concluded, however, that the back region 32 could be stretched in the waist direction and that the stretched back region 32 would define a length in the waist direction that exceeds the length of the unstretched abdominal region 33. However, the design of Reising et al. clearly enables equal stretching of the abdominal region 33. Thus, certain types of external forces applied to the Reising et al. disposable wearing article could result in the abdominal region 33 defining a longer length in the waist direction than the length of the back region 32 in the waist direction. Additionally, other forces on the Reising et al. disposable wearing article will result in the back region and the abdominal region being stretched equal amounts, and hence continuing to define substantially equal lengths in their stretched conditions.

Some stretching of the back region and/or the abdominal region of a disposable wearing article is preferred during and after mounting on a wearer to ensure a snug fit and to facilitate mounting of the disposable wearing article on the wearer. However, the applicant herein has concluded that "a feeling of tightness" on the wearer should be avoided, and hence the disposable wearing article should "not be stretched to its full and leaves some ease when put on the wearer" (paragraph 0025). The Reising et al. reference requires the flaps of the back region 32 to be stretched forward and the flaps of the abdominal region 33 to be stretched rearward when mounting the Reising et al. disposable wearing article on a wearer. This two-direction stretching complicates the

process of mounting the disposable wearing article on the wearer. The Reising et al. reference does not suggest leaving the abdominal region in a substantially unstretched condition and stretching primarily the back region 32 during mounting of the Reising et al. disposable wearing article on the wearer. However, even if a user attempted to employ the Reising et al. disposable wearing article by stretching primarily the back region 32 in the waist direction, this hypothetical adaptation of Reising et al. would result in the back region 32 being "stretched to its full" and causing "a feeling of tightness of the wearer" that should be avoided, as taught in paragraph 0025 of the subject application.

In contrast to Reising et al., the disposable wearing article of the subject invention is configured to be mounted easily on the wearer while avoiding a feeling of tightness on the wearer. In this regard, the disposable wearing article of amended claim 1 has a back region with extensibility in a waist direction and provided with stopper members at both ends in the waist direction. The disposable wearing article of amended claim 1 further has an abdominal region with flap portions on both ends in the waist direction. An absorber bridges between the back region and the abdominal region. Significantly, "a length of the back region in the waist direction when the disposable wearing article is stretched is longer than a maximum length of the abdominal region that can be achieved in the waist direction." Additionally, "the length of the back region in the waist direction when no force is applied to the back region from an outside is almost equal to the length of the abdominal region in the waist direction or shorter than the length of the abdominal region in the waist direction when no force is applied to the abdominal region from the outside." With the claimed construction, the person mounting the disposable wearing article on the wearer need not stretch the width-wise edges of the back region forward while

simultaneously stretching the width-wise edges of the abdominal region rearwardly. Additionally, the application of force to the disposable wearing article results in a stretching of the back region in the waist direction to a dimension that is longer than a maximum length of the abdominal region in the waist direction. It is submitted that the Reising et al. reference does not teach or suggest these aspects of the invention as defined by amended claim 1.

Claims 4-9 all depend directly from claim 1 and hence have all of the limitations of claim 1 plus additional limitations. Thus, the invention defined by dependent claims 4-9 is patentable over Reising et al. for at least the reasons set forth above.

In view of the preceding amendments and remarks, it is submitted that all of the claims remaining in the application are directed to patentable subject matter and allowance is solicited. The Examiner is urged to contact applicant's attorney at the number below to expedite the prosecution of this application.

Respectfully submitted,



Gerald E. Hespos, Esq.
Atty. Reg. No. 30,066
Customer No. 001218
CASELLA & HESPOS LLP
274 Madison Avenue - Suite 1703
New York, NY 10016
Tel. (212) 725-2450
Fax (212) 725-2452

Date: December 5, 2008